

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WILLIE MASON,

Plaintiff

v.

WOODS, et. al.,

Defendants

Case No.: 3:18-cv-00151-RCJ-WGC

**Report & Recommendation of  
United States Magistrate Judge**

Re: ECF No. 49

This Report and Recommendation is made to the Honorable Robert C. Jones, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Before the court is Plaintiff's Motion for a Preliminary Injunction. (ECF No. 49.) Defendants filed a response (ECF Nos. 50, 50-1), and plaintiff filed a reply (ECF No. 51).

Plaintiff seeks a preliminary injunction that gives him a higher degree of access to the law library. After a thorough review, the court recommends that Plaintiff's motion be denied.

**I. BACKGROUND**

Plaintiff is an inmate in the custody of the Nevada Department of Corrections (NDOC), proceeding pro se with this action pursuant to 42 U.S.C. § 1983. (Am. Compl., ECF No. 4.) Following an order granting Defendants' motion for summary judgment in part, this action is proceeding with a single Eighth Amendment claim of deliberate indifference to his safety against Gonzales and Woods. The claim is based on allegations that Plaintiff was working in the culinary department of the prison and alerted these Defendants to a safety issue with a steam kettle that was used to cook eggs, but Defendants directed him to use the kettle anyway, and it tipped

1 suddenly and sent boiling water onto Plaintiff's foot causing him second and third degree burns,  
2 nerve damage, and significant pain. (*See* ECF Nos. 30, 35.)

3 This case has been set for trial on Monday January 3, 2022. (*See* ECF No. 48.)

4 Plaintiff has filed a motion for preliminary injunction where he states that Covid-19 has  
5 hindered Plaintiff's access to pursue legal assistance. He seeks access to the legal library and  
6 adequate assistance from persons trained in the law. He goes on to assert that he wants a higher  
7 degree of access to the law library, once or twice a week, to prepare for his trial. (ECF No. 49.)

## 8 **II. LEGAL STANDARD**

9 The purpose of a preliminary injunction or temporary restraining order is to preserve the  
10 status quo if the balance of equities so heavily favors the moving party that justice requires the  
11 court to intervene to secure the positions until the merits of the action are ultimately determined.  
12 *University of Texas v. Camenisch*, 451 U.S. 390, 395 (1981).

13 Injunctions and temporary restraining orders are governed procedurally by Federal Rule of  
14 Civil Procedure 65, but case law outlines the substantive requirements a party must satisfy to obtain  
15 an injunction or restraining order. *See Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund,*  
16 *Inc.*, 527 U.S. 308, 319 (1999) ("[T]he general availability of injunctive relief [is] not altered by  
17 [Rule 65] and depend[s] on traditional principles of equity jurisdiction.").

18 A preliminary injunction is an "extraordinary and drastic remedy" that is "never awarded  
19 as of right." *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008) (citations omitted). Instead, in every  
20 case, the court "must balance the competing claims of injury and must consider the effect on each  
21 party of the granting or withholding of the requested relief." *Winter v. Natural Resources Defense*  
22 *Council, Inc.*, 555 U.S. 7, 23 (2008) (internal quotation marks and citation omitted). The instant  
23 motion requires that the court determine whether Plaintiff has established the following: (1) he is

1 likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of  
2 preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public  
3 interest. *Id.* at 20 (citations omitted).).

4 The Prison Litigation Reform Act (PLRA) mandates that prisoner litigants must satisfy  
5 additional requirements when seeking preliminary injunctive relief against prison officials. The  
6 PLRA provides, in relevant part:

7 Preliminary injunctive relief must be narrowly drawn, extend no  
8 further than necessary to correct the harm the court finds requires  
9 preliminary relief, and be the least intrusive means necessary to  
10 correct that harm. The court shall give substantial weight to any  
11 adverse impact on public safety or the operation of a criminal  
12 justice system caused by the preliminary relief and shall respect the  
13 principles of comity set out in paragraph (1)(B) in tailoring any  
14 preliminary relief.

15 18 U.S.C. § 3626(a)(2). Thus, § 3626(a)(2) limits the court's power to grant preliminary injunctive  
16 relief to inmates. *See Gilmore v. People of the State of California*, 220 F.3d 987, 998 (9th Cir.  
17 2000). "Section 3626(a)...operates simultaneously to restrict the equity jurisdiction of federal  
18 courts and to protect the bargaining power of prison administrators-no longer may courts grant or  
19 approve relief that binds prison administrators to do more than the constitutional minimum." *Id.* at  
20 999.

21 In addition, in seeking injunctive relief, "there must be a relationship between the injury  
22 claimed in the motion for injunctive relief and the conduct asserted in the underlying complaint."  
23 *Pacific Radiation Oncology, LLC v. Queen's Medical Center*, 810 F.3d 631, 635 (9th Cir. 2015).  
"This requires a sufficient nexus between the claims raised in a motion for injunctive relief and  
the claims set forth in the underlying complaint itself." *Id.* "The relationship between the  
preliminary injunction and the underlying complaint is sufficiently strong where the preliminary  
injunction would grant 'relief of the same character as that which may be granted finally.' *Id.*

1 (quoting *De Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945)). "Absent that  
2 relationship or nexus, the district court lacks authority to grant the relief requested." *Id.*

### 3 **III. DISCUSSION**

4 Typically, a request for a preliminary injunction must be related to the claims proceeding  
5 in this case. Here, Plaintiff has an Eighth Amendment claim for deliberate indifference to his  
6 safety, and not a First Amendment access to courts claim. Under the circumstances presented  
7 here, where Plaintiff claims that his access to the law library is hindering his ability to prepare  
8 for trial in this matter, the court will nevertheless address his claim for relief.

9 Importantly, Plaintiff has not addressed the *Winter* factors. He has not established that he  
10 is likely to succeed on the merits of his claim. Nor has he demonstrated he will suffer irreparable  
11 injury in the absence of injunctive relief.

12 According to HDSP law library supervisor Jacques Graham, prior to Covid-19, inmates  
13 generally had physical access to the law library, but due to Covid-19 safety protocols, inmates  
14 now receive law library services in the manner traditionally provided to inmates in segregated  
15 housing assignments. A correctional officer assigned to the law library makes visits to each  
16 housing unit and inmate cell to pick up or deliver requests. Inmates can submit requests to obtain  
17 law library materials and there is no limit on the number of requests. Inmates may also receive,  
18 process and research case law and Nevada statutes, they may request legal copy work, and they  
19 receive assistance with e-filing. At the time of his declaration Graham said that inmate  
20 assistances were initially removed from staffing the law library due to safety concerns; however,  
21 on February 10, 2021, three inmates began assisting him, and three additional inmates had been  
22 assigned to assist him and were undergoing training. In addition, HDSP had received approval  
23

1 for an additional paid staff member in the law library. (*See* Decl. of Jacques Graham, HDSP  
2 Prison Law Library Supervisor, ECF No. 50-1.)

3 Plaintiff does not state what law library assistance he has requested that is pertinent to  
4 this case that he deems inadequate. In other words, he does not describe what materials he has  
5 requested and has been unable to obtain and how that has precluded him from preparing for this  
6 trial. As Defendants point out, inmates in segregated housing status have routinely been provided  
7 access to the law library resources in this fashion, and the fact that Plaintiff has not had physical  
8 access to the law library, standing alone, does not violate his right of access to the courts.  
9 Asserting generalities such as denial of physical access to the law library and that HDSP is  
10 providing inadequate access is insufficient to prevail on a motion for injunctive relief. *See*  
11 *Bounds v. Smith*, 430 U.S. 817, 828 (1977); *Lewis v. Casey*, 518 U.S. 343, 349 (1996) (citation  
12 omitted) (inmate must show actual injury to prevail on access to courts claim). “[A]n inmate  
13 cannot establish relevant actual injury by simply establishing that his prison’s law library or legal  
14 assistance program is subpar in some theoretical sense.” *Lewis*, 518 U.S. at 351. Instead, the  
15 inmate must “demonstrate that the alleged shortcomings in the library or legal assistance  
16 program hindered his efforts to pursue a legal claim.” *Id.*

17 Finally, Plaintiff has not addressed the balance of hardships or public interest factors.

18 Plaintiff has not met his burden of demonstrating he is entitled to injunctive relief;  
19 therefore, his motion for a preliminary injunction should be denied.

#### 20 **IV. RECOMMENDATION**

21 IT IS HEREBY RECOMMENDED that the District Judge enter an order **DENYING**  
22 Plaintiff’s motion for preliminary injunction (ECF No. 49).

23 The parties should be aware of the following:

1 1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to  
2 this Report and Recommendation within fourteen days of being served with a copy of the Report  
3 and Recommendation. These objections should be titled “Objections to Magistrate Judge’s  
4 Report and Recommendation” and should be accompanied by points and authorities for  
5 consideration by the district judge.

6 2. That this Report and Recommendation is not an appealable order and that any notice of  
7 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed  
8 until entry of judgment by the district court.

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10 Dated: August 27, 2021

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William G. Cobb  
United States Magistrate Judge  
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